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Attorney and Counselor at Law

November 13, 2019

**Via Electronic Communications Filings (“ECF”)**

The Honorable Magistrate Judge Sanket J. Bulsara  
United States District Court, Eastern District of New York  
225 Cadman Plaza East  
Chambers 304N, Courtroom 324N  
Brooklyn, NY 11201

**Courtesy copied to all counsel via ECF**

Re: Request for Excusal (or Other Relief) Related to  
Status Conference to be held November 15, 2019  
in *Bow & Drape, Inc. v. Truly Commerce Inc., et al.*, Index No. 1:18-cv-05066-NG-SJB

Your Honor:

**A. Introduction:**

I represent the Defendant Day to Day Imports, Inc., in the matter of Bow & Drape, Inc. v. Truly Commerce Inc., et al., Index No. 1:18-cv-05066-NG-SJB. By docket entry (*un-numbered, October 30, 2019*) Your Honor scheduled a status conference related to the status of the settlement discussions between the Plaintiff Bow & Drape, Inc., and Truly Commerce Inc. That conference is to be held on Friday, November 15, 2019 at 4:30 P.M. Separately, the parties have a settlement conference before Your Honor on November 14, 2019. I am requesting excusal from the Friday status conference (not from the Thursday settlement conference)

**B. The Request:**

As described below, I will be unable to attend the status conference on Friday and the issues to be discussed at the Friday status conference do not involve my client. In addition, my client takes no position on the issues between the Plaintiff and the co-Defendant. Therefore, my client respectfully requests that: (i.) I be excused from attendance at the Friday conference; or (ii.) that the two conferences be consolidated to Thursday; or (iii.) that notwithstanding Rule II.C.2. of Your Honor’s chamber practice, my client be allowed to appear by *per diem* counsel. In the alternative I request: (iv.) that the Friday conference be adjourned.

Plaintiff **consents** to my request for excusal, my request in the alternative that my client be represented by *per diem* counsel, and my request in the

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alternative that the two conferences be consolidated. They **oppose** my request to adjourn.

Co-Defendant **consents** to my request that the two conferences be consolidated. Co-Defendant **opposes** my other requests.

**C. Why I Cannot Attend the Status Conference on Friday:**

My client's principal and myself are Sabbath-observant, and this Friday will be unavailable to attend at 4:30 P.M. (*see printout attached to this letter from MyZmanim.com showing Shabbat starting time at 4:20 P.M. on November 15, 2019*).

**D. Why my Client is Uninvolved and Takes no Position on the Issues to be Discussed at the Status Conference:**

As described by my learned colleague in his letter of November 12, 2019 (*Docket No. 36*) outstanding issues remain with respect to the settlement between Bow & Drape Inc. and Truly Commerce Inc. My client, Day to Day Imports, Inc., is not a party to those settlement discussions and takes no position on these issues between the other parties to be discussed at the Friday conference.

**E. Conclusion:**

Because I cannot attend and because my client is uninvolved and takes no position on the issues to be discussed at the Status Conference, my client respectfully requests that: (i.) I be excused from attendance; or (ii.) my client be allowed to attend by an outside *per diem* attorney; or (iii.) the two conferences be consolidated and held on Thursday. If neither of those options are available, then my client respectfully requests that the Friday status conference be adjourned.

RESPECTFULLY SUBMITTED,



Baruch S. Gottesman, Esq.

Enclosure: